

IN RE: PETITION FOR ZONING VARIANCE  
2012 of private rd. (196' length)  
NS Cape May Rd. 132' W of River-  
neck Rd (1939 Cape May Rd. Lot 9)  
15th Election District  
5th Councilmanic District  
Walter Babikow, et ux,  
Legal Owners,  
John W. Heiser, Jr.,  
Contract Purchaser  
Petitioners

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1802.3.C.1 to allow a buildable lot with a minimum width of 50 ft. in lieu of the required 55 ft., as more particularly described in Petitioner's Exhibit 1.

The Petitioner, John W. Heiser, Jr., appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 1939 Cape May Road, (lot #9) consists of 0.516 acres zoned D.R. 5.5 and is located within the Chesapeake Bay Critical Areas. The property is unimproved. Testimony was provided by the legal owner, Mr. John W. Heiser, Jr., as Mr. and Mrs. Walter Babikow sold lot #9 to Mr. Heiser. There is no additional land from which to obtain an additional 5' wide strip in order to cause lot #9 to be developed in compliance with the D.R. 5.5 regulations.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the

public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or nonconforming, on another property. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 17th day of April, 1989 that the Petition for Zoning Variance from Section 1802.3.C.1 to allow a buildable lot with a minimum width of 50 ft. in lieu of the required 55 ft., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition; and,
- 2) Petitioner shall comply with all requirements of the Zoning Plans Advisory Committee as set forth in their comments submitted hereto, including, but not

limited to, the Bureau of Water Quality and Resource Management comments dated February 7, 1989.

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated February 16, 1989, attached hereto and made a part hereof.

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:mmm  
att.  
cc: Peoples Counsel

ORDER RECEIVED FOR FILING  
Date 4/19/89  
By M. Hark

#### PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1 To allow a buildable lot with a minimum width of 50 ft. in lieu of the required 55 ft.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

We have 2 lots under one owner at the present time. Each lot is 50 feet wide because they were subdivided years ago. Current regulations require 55 feet width in order to sell them. We are therefore requesting a 5 feet variance on the width of each lot.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

John W. Heiser Jr.  
(Type or Print Name)  
Signature  
808 Millwood Drive  
Address  
Pallston, Md 21047  
City and State

Attorney for Petitioner:

(Type or Print Name)  
Signature  
Address  
City and State

Attorney's Telephone No.:

Legal Owner(s):

Walter Babikow - May Babikow  
(Type or Print Name)  
Signature  
Edna Bolander  
(Type or Print Name)  
Signature  
Benjamin E. Wilson, Dorothy Wilson  
(Type or Print Name)  
Signature

7904 Babikow Road  
Address  
Baltimore, Maryland 21237  
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

John W. Heiser Jr.  
Name  
800 Millwood Drive  
Address  
666-2363  
879-2107  
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this \_\_\_\_\_ day

of \_\_\_\_\_, 19\_\_\_\_, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock

\_\_\_\_\_ M.

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner of Baltimore County.

(over)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines  
Zoning Commissioner

DATE: February 16, 1989

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance - Item #283  
Walter and May Babikow - Lot #9 Cape May Point

Subject property is located along Riverneck Road, Lot #9 of Cape May Point. The site is within the Chesapeake Bay Critical Area and is classified as Limited Development Area.

The applicant has requested a zoning variance from Section 1802.3.C.1 "to allow a buildable lot with a minimum width of 50 feet in lieu of the required 55 feet."

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01 O.>

The proposed development will comply with Critical Area Law provided that the zoning petition is conditioned with the following requirements:

1. Two major deciduous trees or four conifer trees shall be planted and maintained on the lot. A combination of these two tree types is acceptable provided that 2,000 square feet of tree cover is provided. A major deciduous tree is estimated to cover 1,000 square feet and a conifer, 500 square feet at maturity.

Memo to Mr. J. Robert Haines  
February 16, 1989  
Page 2

2. Storm water runoff shall be directed from impervious surfaces associated with this petition to pervious areas to encourage maximum infiltration.
3. Rooftop runoff shall be directed through down-spouts and into a dry well of approved design to encourage maximum infiltration (see attached dry well design).

Upon compliance with the above requirements, this project will be approved. Please contact Mr. David C. Flowers at 887-3980 if you require additional information.

*Robert W. Sheesley*  
Robert W. Sheesley, Director  
Department of Environmental Protection  
and Resource Management

RWS:DCF:tjg

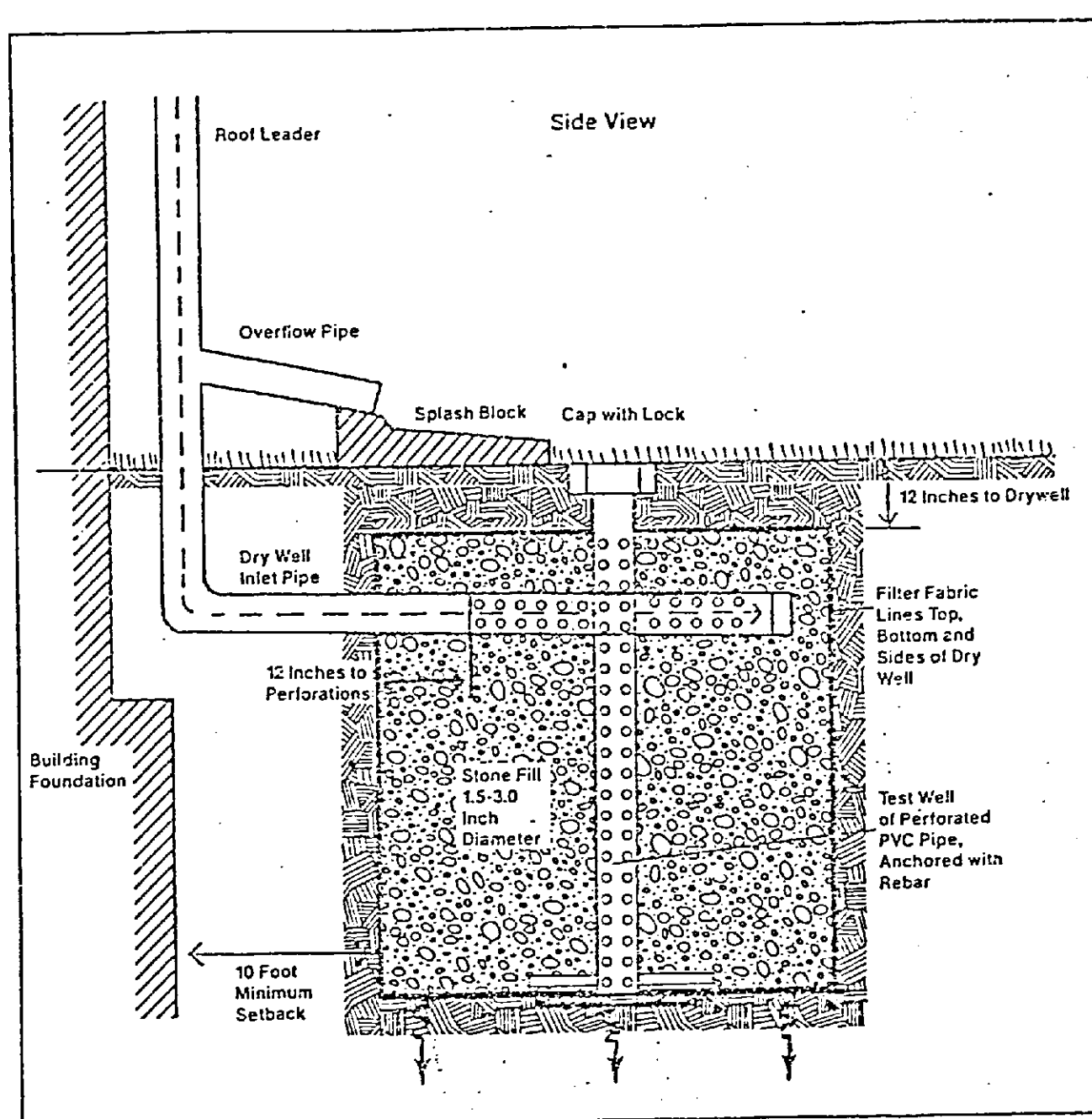
Attachment

cc: The Honorable Ronald B. Hickernell  
The Honorable Norman W. Lauenstein  
The Honorable Dale T. Volz  
Mr. David C. Flowers

#### DESIGN 4:

Dry Well Designs. (Figure 5.8). Dry wells are a basic trench variation which are designed exclusively to accept rooftop runoff from residential or commercial buildings (Figure 5.8). Additional guidance on dry well design is available from Md WRA (1984). Basically, the leader from the roof is extended into an underground trench, which is situated a minimum of ten feet away from the building foundation. Rooftop gutter screens are needed to trap any particles, leaves and other debris, and must be regularly cleared.

Figure 5.8: Dry Well Design (adapted from Md WRA, 1985)





MAISTE & WATTS, INC.  
SURVEYORS and ENGINEERS  
283 CRITICAL AREA  
2823 Chenoak Avenue  
Baltimore, Maryland 21224  
(301) 882-0321

December 15, 1988

DESCRIPTION OF LOT NO. 9, CAPE  
MAY POINT, TO ACCOMPANY PETITION  
FOR ZONING VARIANCE, 15-TH ELECTION  
DISTRICT, BALTIMORE COUNTY, MARYLAND.

Beginning for the same on the Southerly side of a 15 foot private right  
of way for ingress and egress, at a point distant 50 feet, measured  
Westerly along the South side of said right of way from its intersection  
with the West side of Riverneck Road, 30 feet wide, said point of  
intersection being distant 215 feet, measured Northerly along the West  
side of Riverneck Road from its intersection with the North side of Cape  
May Road, 30 feet wide, thence leaving said place of beginning and  
running and binding on the South side of said 15 foot right of way,  
11 Westerly 50.00 feet thence leaving said 15 foot right of way and  
running

21 Northerly for a distance of 461.30 feet to a point in the waters of  
Middle River, thence running thru the waters of Middle River,  
31 Easterly 55.78 feet, thence leaving Middle River and running  
41 Southerly for a distance of 137.80 feet to the place of beginning

Containing 0.516 Acres of Land

This description has been prepared for zoning purposes only and is not  
intended to be used for conveyance.



Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3353

J. Robert Haines  
Zoning Commissioner

February 24, 1989

### NOTICE OF HEARING

Dennis F. Rasmussen  
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act  
and Regulations of Baltimore County will hold a public hearing on the property  
identified herein in Room 106 of the County Office Building, located at 111  
W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance  
CASE NUMBER: 89-388-A  
70 ft. east of private road (196 ft. length), off NS Cape May Road, 132' W of  
Riverneck Road (Lot #8)  
15th Election District - 5th Councilmanic  
Legal Owner(s): Walter Babikow, et al  
Contract Purchaser(s): John W. Heiser, Jr.  
HEARING SCHEDULED: WEDNESDAY, MARCH 29, 1989 at 9:00 a.m.

Variance to allow a buildable lot with a minimum width of 50 ft. in lieu of the  
required 55 ft.

In the event that this Petition is granted, a building permit may be issued  
within the thirty (30) day appeal period. The Zoning Commissioner will, however,  
entertain any request for a stay of the issuance of said permit during this  
period for good cause shown. Such request must be in writing and received in  
this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES  
Zoning Commissioner of  
Baltimore County

cc: John W. Heiser, Jr.  
Walter Babikow, et al  
File

Critical Area Commission

### CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 15th  
Posted for: Variance  
Petitioner: Walter Babikow, et al  
Location of property: 70 ft. east of private road, 132' W of Riverneck Road (Lot #8)  
Location of Sign: 15th Election District - 5th Councilmanic  
Remarks: Case No. 89-388-A, Case No. 89-388-B  
Posted by: J. Robert Haines  
Date of return: 3/1/89  
Number of Signs: 2

### CERTIFICATE OF PUBLICATION

TOWSON, MD., March 10, 1989  
THIS IS TO CERTIFY, that the annexed advertisement was  
published in THE JEFFERSONIAN, a weekly newspaper printed  
and published in Towson, Baltimore County, Md., appearing on  
March 7, 1989.

THE JEFFERSONIAN,

Publisher

PO 10476  
NY 127062  
ca 89-388-A  
price \$39.40

### BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 15, 1989

COUNTY OFFICE BLDG.  
111 W. Chesapeake Ave.  
Towson, Maryland 21204

MEMBERS

Bureau of  
Engineering  
Department of  
Traffic Engineering  
State Roads Commission  
Bureau of  
Fire Prevention  
Health Department  
Project Planning  
Building Department  
Board of Education  
Zoning Administration  
Industrial  
Development

Mr. John W. Heiser, Jr.  
800 Millwood Drive  
Fallston, MD 21047

RE: Item No. 283, Case No. 89-388-A  
Petitioner: Mr. Walter Babikow, et al  
Petition for Zoning Variance

Dear Mr. Heiser:

The Zoning Plans Advisory Committee has reviewed the plan  
submitted with the above referenced petition. The following  
comments are not intended to indicate the appropriateness of  
the zoning action requested, but to assure that all parties are  
made aware of plans or problems with regard to the development  
plans that may have a bearing on this case. Director of  
Planning may file a written report with the Zoning Commissioner  
with recommendations as to the suitability of the requested  
zoning.

Enclosed are all comments submitted from the members of the  
Committee at this time that offer or request information on  
your petition. If similar comments from the remaining members  
are received, I will forward them to you. Otherwise, any  
comment that is not informative will be placed in the hearing  
file. This petition was accepted for filing on the date of the  
enclosed filing certificate and a hearing scheduled  
accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN  
COMMENTS TO MY OFFICE, ATTENTION: JULIE WINIARSKI. IF YOU  
HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT  
887-3391.

Very truly yours,

JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Walter Babikow

### CERTIFICATE OF PUBLICATION

OFFICE OF  
Dundalk Eagle

4 N. Center Place  
P.O. Box 8936  
Dundalk, Md. 21222

March 9, 1989

THIS IS TO CERTIFY, that the annexed advertisement of  
J. Robert Haines in the matter of Zoning Higs. Case  
89-388-A - P.O. #10475 - Reg. #M27063 - 91 lines  
was inserted in The Dundalk Eagle a weekly news-  
paper published in Baltimore County, Maryland, once a week  
for one week before the  
10th day of March 1989; that is to say,  
the same was inserted in the issues of March 9, 1989

Kimbel Publication, Inc.  
per Publisher.

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Your petition has been received and accepted for filing this  
21st day of February, 1989.

Petitioner  
Petitioner's  
Attorney

Mr. Walter Babikow, et al  
Received by: James E. Dyer  
Chairman, Zoning Plans  
Advisory Committee

### BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

J. Robert Haines  
TO: Zoning Commissioner  
Pat Keller, Deputy Director  
FROM: Office of Planning and Zoning  
Zoning Petition Nos. 89-372-A (RLC, Inc.); 89-373-A (Rutkowski);  
SUBJECT: 89-377-A (Serruto); and 89-388-A (Babikow)

The petitioners listed above are all requesting setback variances to allow  
development on lots less than 55 feet in width. In reference to these  
requests, staff's primary concerns are:

1. What is the impact on adjoining property?
2. Are adequate setbacks (building to building setback should be  
approximately 20 to 30 feet) being provided?
3. Will the reduced lot size result in requests for additional  
variances?

If the petitioners request(s) are granted, staff recommends the following  
conditions be applied:

- \* All building setback lines shall be shown on the site plan and recorded  
by the applicant. A statement shall be included stating that all  
development shall conform to the setbacks as shown and additional  
variances shall not be granted.

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
Courts Building, Suite 405  
Towson, Maryland 21204  
494-3354

March 1, 1989

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, MD 21204

Dear Mr. Haines,

The Bureau of Traffic Engineering has no comments for items number  
264, 277, 278, 280, 281, 282, 283, 284, 286, 287, 288, 292, 293, 294, 295  
& 296.

Very truly yours,

Michael S. Flanigan

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3353

J. Robert Haines  
Zoning Commissioner

Date: 3/13/89

Mr. John W. Heiser, Jr.  
800 Millwood Drive  
Fallston, Maryland 21047



Dennis F. Rasmussen  
County Executive

Re: Petition for Zoning Variance  
CASE NUMBER: 89-388-A  
70 ft. east of private road (196 ft. length), off NS Cape May Road, 132' W of  
Riverneck Road (Lot #8)  
15th Election District - 5th Councilmanic  
Legal Owner(s): Walter Babikow, et al  
Contract Purchaser(s): John W. Heiser, Jr.  
HEARING SCHEDULED: WEDNESDAY, MARCH 29, 1989 at 9:00 a.m.

Please be advised that \$99.90 is due for advertising and posting of  
the above-referenced property. All fees must be paid prior to the hearing.  
Do not remove the sign and post set(s) from the property from the time  
it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED  
ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring  
it along with the sign(s) and post(s) to the Zoning Office, County Office  
Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before  
the hearing.

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE-REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No.

post set(s), there  
each set not

DATE: 2-23-89 ACCOUNT: 100-100000

AMOUNT: \$ 99.90

PAID BY: W. Babikow

Posting & Advertising (89-388-A)

B B[14]\*\*\*\*\*98048 0206

VALIDATION OR SIGNATURE OF CASHIER

BY: PFM-AGENCY YELLOW-OUTDOOR

Baltimore County  
Fire Department  
Towson, Maryland 21204-2586  
494-4500

Paul H. Reincke  
Chief

February 7, 1989

J. Robert Haines  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204



Dennis F. Rasmussen  
County Executive

Re: Property Owner: John W. Heiser, Jr.

Location: Cape May Road - Lot #9

Item No.: 283

Zoning Agenda: Meeting of January 24,  
1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this  
Bureau and the comments below marked with an "X" are applicable and required  
to be corrected or incorporated into the final plans for the property.

- (X) 1. Fire hydrants for the referenced property are required and shall be  
located at intervals or \_\_\_\_\_ feet along an approved road in accor-  
dance with Baltimore County Standards as published by the Department  
of Public Works. Fire Hydrants at 750' intervals.

- ( ) 2. A second means of vehicle access is required for the site.

- ( ) 3. The vehicle dead end condition shown at \_\_\_\_\_

EXCEEDS the maximum allowed by the Fire Department.

- (X) 4. The site shall be made to comply with all applicable parts of the  
Fire Prevention Code prior to occupancy or beginning of operation.  
Road to lots #8 and #9 shall have a minimum width of 16 feet.

- (X) 5. The buildings and structures existing or proposed on the site shall  
comply with all applicable requirements of the National Fire Pro-  
tection Association Standard No. 101 "Life Safety Code," 1976 edition  
prior to occupancy.

- ( ) 6. Site plans are approved, as drawn.

- ( ) 7. The Fire Prevention Bureau has no comments at this time.

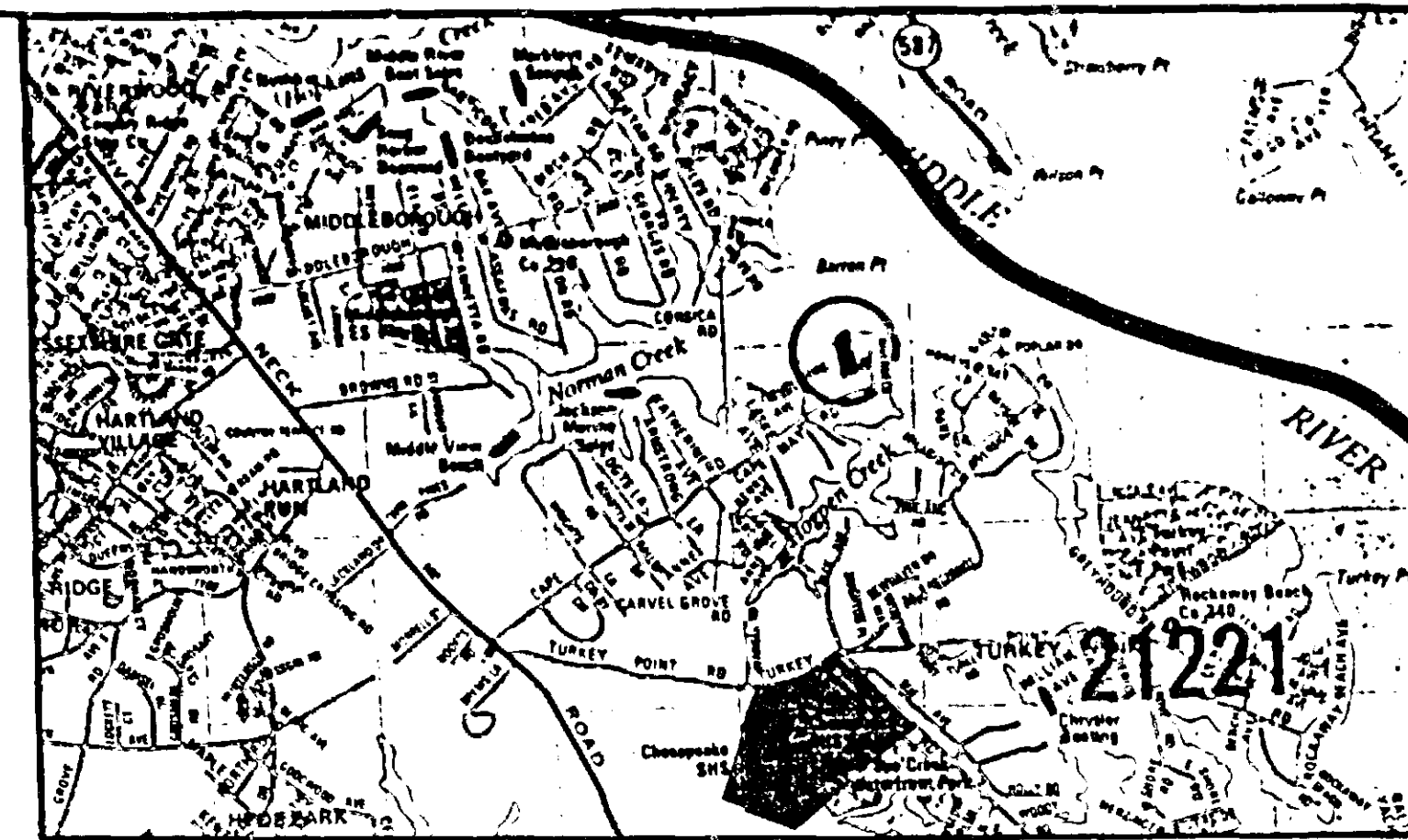
REVIEWER: [Signature] 2/8/89  
Planning Group  
Special Inspection Division

Noted and  
Approved:

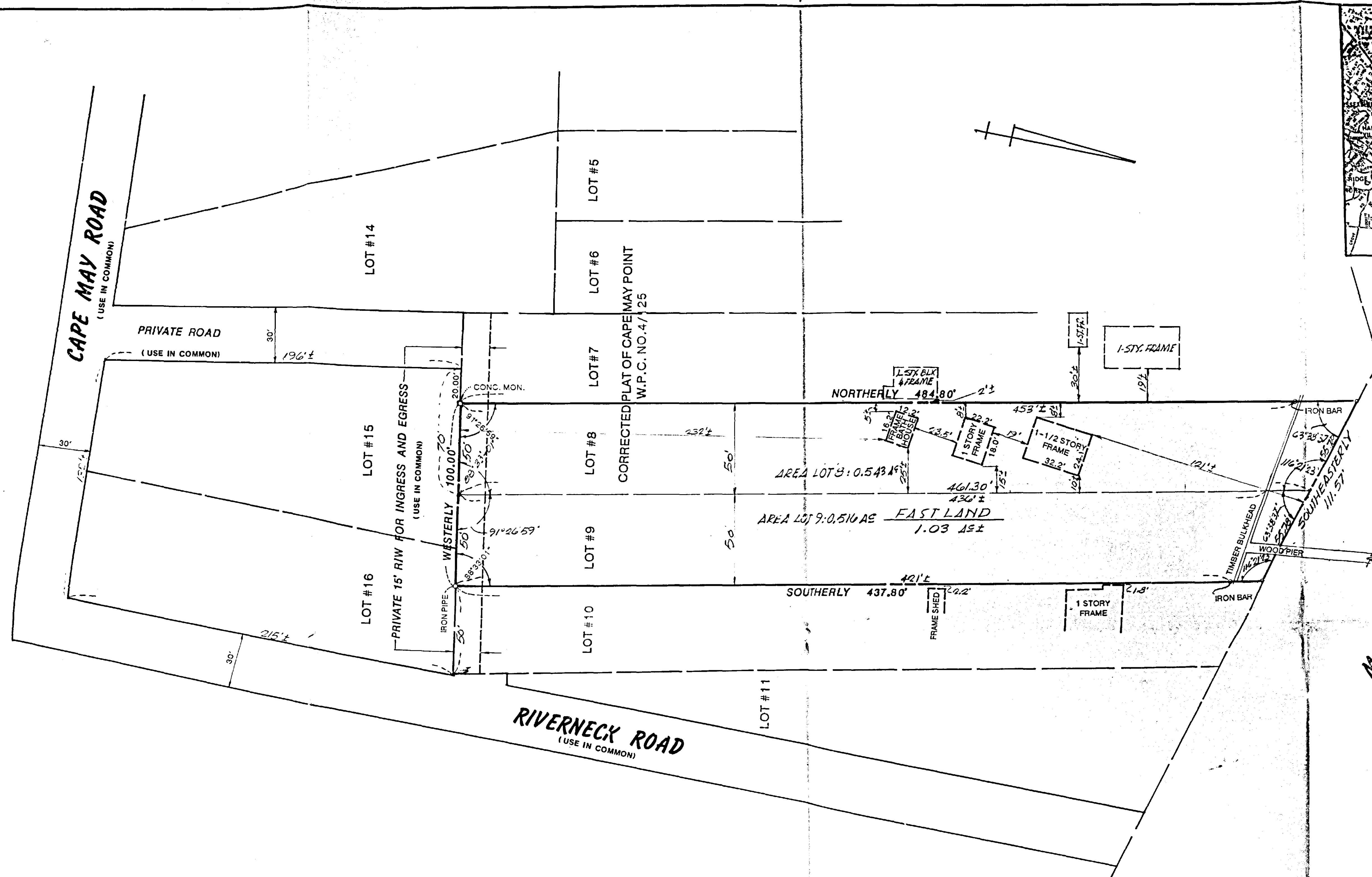
[Signature]  
Fire Prevention Bureau

/s/





VICINITY MAP  
SCALE: 1"=2000



MIDDLE RIVER

- NOTES
- 1) ZONED (EXISTING).....D.R. 5.5
  - 2) AREA.....1.059
  - 3) No. of Lots Allowed.....1.059x5.5=5.8
  - 4) PROPOSED ZONING.....D.R. 5.5 WITH VARIANCE TO BCZR SECTION 1.802.3.C.1 TO ALLOW A LOT WIDTH OF 50' IN LIEU OF THE REQUIRED 55'.
  - 5) PROPOSED No. Lots.....2
  - 6) UTILITIES EXIST IN CAPE MAY ROAD
  - 7) SUBDIVISION: CAPE MAY POINT-LOTS 8 & 9-W.P.C. LIBER 4 FOLIO 125
  - 8) PRIOR ZONING: 'A' RESIDENCE-HOUSE BUILT APPROXIMATELY 1910
  - 9) 1-STY. FRAME HOUSE ON LOT 8 USED FOR KITCHEN ONLY.

PETITIONER'S  
EXHIBIT 1 CRITICAL AREA  
283



Drafting	DATE	REVISIONS	MAISTE & WATTS, INC. SURVEYORS & ENGINEERS 2923 CHENOA AVE. BALTIMORE MARYLAND 21234 (301) 882-0321	TITLE DEED: WALTER W. BABIKOW, ET. AL. W.J.R. 3876/121	PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE FOR LOTS 8 & 9 CAPE MAY POINT 15-TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND	SHEET 1 OF 1	DATE NOV. 25, 1988 SCALE 1"=30'	JOB NUMBER 88-203
Check	12/2/88	House - Lot 7 - Notes						
Design								
Check								